

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

RYAN M. KELLY, individually and as the )  
representative of a class of similarly-situated )  
persons, )  
  )  
  Plaintiff,         ) No. 1:10-cv-01844  
  )  
  v.    ) Honorable George W. Lindberg  
  )  
WALGREEN CO., an Illinois corporation,         )  
  )  
  Defendant.         )

**PLAINTIFF'S MOTION TO VOLUNTARILY DISMISS  
AND FOR APPROVAL OF DISMISSAL**

Plaintiff, RYAN M. KELLY, pursuant to Fed. Rule Civ. Proc. 41, hereby seeks to dismiss this action with prejudice and without costs, and since this action was filed as a class action, Plaintiff seeks approval of the court to dismiss this action, pursuant to Fed. Rule Civ. Proc. 23. In support of this Motion, Plaintiff states as follows:

1.       Although this action was brought as a class action, the Plaintiff did not file a brief relating to class certification and no class was certified.
2.       The parties have reached a settlement to resolve their dispute. Under the terms of the settlement, Plaintiff agrees to seek a dismissal of the case with prejudice and without taxation of costs.
3.       This case has not received any publicity such that a putative class member would be misled into believing that his rights were being prosecuted in this action. Since no class was ever certified, notice was not issued and the class members would have no reason to rely upon this litigation.

4. Dismissal of the case with prejudice and without taxation of costs will only have a res judicata effect on Plaintiff and no other putative class member would be affected. Notice to the putative class is not required where no class has been certified. *Schlenz v. Castle*, 132 Ill.App.3d 993 (2nd Dist. 1985).

5. Since no other putative class member would be affected by the settlement and the parties have reached a compromise to resolve their dispute on an individual basis, good cause exists to approve the voluntary dismissal of this action.

6. Attached hereto as Exhibit A is a copy of the proposed Agreed Dismissal Order. WHEREFORE, Plaintiff requests that the court find that good cause exists to approve the voluntary dismissal of this action and requests the court to dismiss the Plaintiff's individual action with prejudice and any class claims to be dismissed without prejudice without taxation of costs.

Respectfully submitted,

/s/Brian J. Wanca  
One of Plaintiff's Attorneys

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 28, 2010, I electronically filed the foregoing Plaintiff's Motion to Voluntarily Dismiss and For Approval of Dismissal with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys for record.

/s/Brian J. Wanca

One of the Attorneys for Plaintiff

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